

EXHIBIT “2”

1 **SEI**
2 BOYD B. MOSS III, ESQ.
3 Nevada Bar No. 8856
4 boyd@mossbergllv.com
5 JOHN C. FUNK, ESQ.
6 Nevada Bar No. 9255
7 john@mossbergllv.com
8 MOSS BERG INJURY LAWYERS
9 4101 Meadows Lane, Suite 110
10 Las Vegas, Nevada 89107
11 Telephone: (702) 222-4555
12 Facsimile: (702) 222-4556
13 *Attorneys for Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 CHRISTIAN O'DELL,
12
13 Plaintiff,

CASE NO. A-21-832479-C
DEPT. NO.

14 v.

SUMMONS

15 ALBERTSON'S LLC, a Foreign Limited-
16 Liability Company, d/b/a ALBERTSONS;
17 DOE EMPLOYEE, a Nevada Resident; DOE
18 STORE MANAGER, a Nevada Resident;
19 ROE MAINTENANCE COMPANY, a
20 Nevada Corporation; ROE
21 CONSTRUCTION COMPANY, a Nevada
22 Corporation; DOES III through X; and ROE
23 CORPORATIONS III through X, inclusive,

24 Defendants.

25 **NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU**
26 **WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN TWENTY ONE**
27 **(21) DAYS. READ THE INFORMATION BELOW:**

ALBERTSON'S LLC

28 **TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against you
for the relief set forth in the Complaint.


1. If you intend to defend this lawsuit, within twenty one (21) days after this Summons is served on you, exclusive of the day of service, you must do the following:

- 1 (a) File with the Clerk of this Court, whose address is shown below, a formal written
2 response to the Complaint in accordance with the rules of the Court, with the
3 appropriate filing fee.
- 4 (b) Serve a copy of your response upon the attorney whose name and address is
5 shown below.
- 6 2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and
7 failure to so respond will result in a judgment of default against you for the relief
8 demanded in the Complaint, which could result in the taking of money or property or
9 other relief requested in the Complaint.
- 10 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly
11 so that your response may be filed on time.
- 12 4. The State of Nevada, its political subdivisions, agencies, officers, employees, board
13 members, commission members and legislators each have forty-five (45) days after
14 service of this Summons within which to file an Answer or other responsive pleading to
15 the Complaint.

16 DATED this 7 day of April, 2021.

17 Respectfully Submitted By:

18 MOSS BERG INJURY LAWYERS

19 
20 BOYD B. MOSS III, ESQ.

21 Nevada Bar No. 8856

22 boyd@mossberglv.com

23 JOHN C. FUNK, ESQ.

24 Nevada Bar No. 9255

25 john@mossberglv.com

26 MOSS BERG INJURY LAWYERS

27 4101 Meadows Lane

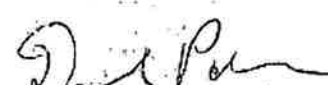
28 Las Vegas, Nevada 89107

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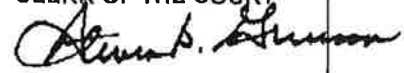
Attorneys for Plaintiff

STEVEN D. GRIERSON
CLERK OF COURT

By:  4/8/2021
Deputy Clerk Date

Demand Palmer

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Steven D. Grierson
CLERK OF THE COURT



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13 *Attorneys for Plaintiff*

CASE NO: A-21-832479-C
Department 26

9 **DISTRICT COURT**
10
11 **CLARK COUNTY, NEVADA**

12 CHRISTIAN O'DELL,
13
14 Plaintiff,

CASE NO.
DEPT. NO.

15 v.

16 ALBERTSON'S LLC, a Foreign Limited-
17 Liability Company, d/b/a ALBERTSONS;
18 DOE EMPLOYEE, a Nevada Resident; DOE
19 STORE MANAGER, a Nevada Resident;
20 ROE MAINTENANCE COMPANY, a
21 Nevada Corporation; ROE
22 CONSTRUCTION COMPANY, a Nevada
23 Corporation; DOES III through X; and ROE
24 CORPORATIONS III through X, inclusive,

25 Defendants.

COMPLAINT

26 Plaintiff, CHRISTIAN O'DELL, by and through her attorneys, BOYD B. MOSS III,
27 ESQ., and JOHN C. FUNK, ESQ., of the law firm of MOSS BERG INJURY LAWYERS, and
28 for her causes of action against Defendant, hereby alleges as follows:

1. That at all times relevant to these proceedings, Plaintiff, CHRISTIAN O'DELL
(hereinafter referred to as "Plaintiff") was and is a resident of Clark County, Nevada.

1 2. Plaintiff is informed, believes, and thereon alleges that at all times relevant to
2 these proceedings, Defendant, ALBERTSON'S LLC (hereinafter referred to as "Defendant"),
3 was and is a Foreign Limited-Liability Company, organized and existing pursuant to the laws of
4 the State of Nevada, and authorized to do and doing business in Clark County, Nevada, as
5 ALBERTSONS, located at 2835 South Nellis, Las Vegas, Nevada 89130 (hereinafter referred to
6 as "Subject Premises").
7

8 3. Plaintiff is informed, believes, and thereon alleges that at all times relevant to
9 these proceedings, Defendant, DOE EMPLOYEE was and is a citizen and resident of Nevada
10 and an unknown employee of Defendant, ALBERTSONS and was responsible for inspecting
11 and/or maintaining the Subject Premises. Plaintiff will ask leave of this Court to amend her
12 Complaint to insert the true names and capacities of DOE EMPLOYEE when the same have
13 been fully ascertained.
14

15 4. Plaintiff is informed, believes, and thereon alleges that at all times relevant to
16 these proceedings, Defendant, DOE STORE MANAGER was and is a citizen and resident of
17 Nevada and an unknown store manager of Defendant, ALBERTSONS and was responsible for
18 managing, inspecting and/or maintaining the Subject Premises and making sure the Subject
19 Premises is safe and free from hazardous conditions for guests. Plaintiff will ask leave of this
20 Court to amend her Complaint to insert the true names and capacities of DOE STORE
21 MANAGER when the same have been fully ascertained.
22

23 5. Plaintiff is informed, believes, and thereon alleges that at all times relevant to
24 these proceedings, Defendant, ROE MAINTENANCE COMPANY was and is a Nevada
25 Corporation organized and existing pursuant to the laws of the State of Nevada and was
26 responsible for inspecting and/or maintaining the Subject Premises. Plaintiff will ask leave of
27 this Court to amend her Complaint to insert the true names and capacities of ROE
28

1 MAINTENANCE COMPANY when the same have been fully ascertained.

2 6. Plaintiff is informed, believes, and thereon alleges that at all times relevant to
3 these proceedings, Defendant, ROE CONSTRUCTION COMPANY was and is a Nevada
4 Corporation organized and existing pursuant to the laws of the State of Nevada and was
5 responsible for the construction on the Subject Premises. Plaintiff will ask leave of this Court to
6 amend her Complaint to insert the true names and capacities of ROE CONSTRUCTION
7 COMPANY when the same have been fully ascertained.
8

9 7. That the true names and capacities, whether individual, corporate, associate or
10 otherwise of Defendants named herein as DOES III through X are unknown to Plaintiff who,
11 therefore, sues said Defendants by said fictitious names. Plaintiff is informed, believes, and
12 thereon alleges that each of the Defendants designated as DOES are responsible in some manner
13 for the events and happenings referred to herein, specifically for creating and/or allowing a
14 hazardous condition to exist on the Subject premises, which caused damages proximately to
15 Plaintiff as herein alleged. Plaintiff will ask leave of this Court to amend her Complaint to insert
16 the true names and capacities of DOES III through X when the same have been fully ascertained
17 and to join such Defendants in this action. At all times mentioned herein, each Defendant was
18 acting as the agent, servant, and/or employee of each other Defendant.
19
20

21 8. That the true names and capacities, whether individual, corporate, associate or
22 otherwise of Defendants named herein as ROE CORPORATIONS III through X are unknown
23 to Plaintiff who, therefore, sues said Defendants by said fictitious names. Plaintiff is informed,
24 believes, and thereon alleges that each of the Defendants designated as ROE CORPORATIONS
25 are responsible in some manner for the events and happenings referred to herein, specifically for
26 creating and/or allowing a hazardous condition to exist on the Subject Premises, which caused
27 damages proximately to Plaintiff as herein alleged. Plaintiff will ask leave of this Court to
28

1 amend her Complaint to insert the true names and capacities of ROE CORPORATIONS III
2 through X when the same have been fully ascertained and to join such Defendants in this action.
3 At all times mentioned herein, each Defendant was acting as the agent, servant, and/or
4 employee of each other Defendant.
5

6 9. That on or about December 28, 2019, Plaintiff was a guest on the Subject
7 Premises, commonly known as ALBERTSONS.

8 10. At that same time and place, Defendants, and each of them, carelessly and
9 negligently created, owned, controlled, inspected, and/or maintained the Subject Premises in an
10 unstable and dangerous manner so as to allow a hazardous condition to exist on the Subject
11 Premises, specifically, improperly secured floorboards with exposed holes in the ground due to
12 sewage back up, in a designated walkway, where Defendants were aware people would be
13 walking, which caused Plaintiff to lose her balance and her body to twist, which caused Plaintiff
14 to sustain serious injuries and damages.
15

16 11. That as a direct and proximate result of Defendants' and/or their
17 employee's/agent's negligent acts and/or omissions and/or breach of duty, Defendants forced
18 Plaintiff to encounter a dangerous condition by creating and/or leaving unsecured floorboards
19 with exposed holes in the ground on the Subject Premises, in a designated walkway causing
20 Plaintiff to lose her balance and her body to twist, thereby causing Plaintiff to sustain injuries.
21

22 12. Defendants, and each of them, carelessly and negligently failed to warn of a
23 hazard and failed to fix it, with respect to the Subject Premises, thereby forcing Plaintiff to
24 encounter a dangerous condition on the Subject Premises, resulting in Plaintiff sustaining
25 serious injuries and damages.
26

27 13. That as a further direct and proximate result of the negligence, carelessness, and
28 recklessness of Defendants, and each of them, Plaintiff sustained severe and debilitating injuries

1 to her right knee, hips, among others, all or some of which conditions may be permanent or
2 disabling in nature, causing general damages in an amount to be determined at trial.

3 14. This Court has subject matter jurisdiction over this matter pursuant to NRS
4 4.370(1), as the matter in controversy exceeds Fifteen Thousand Dollars (\$15,000.00) exclusive
5 of attorney's fees, interest, and costs.
6

7 15. That as a further direct and proximate result of the negligence, carelessness, and
8 recklessness of Defendants, and each of them, Plaintiff was required, and will be required in the
9 future, to incur expenses for medical care and treatment and costs incidental thereto in an
10 amount to be determined.

11 16. That as a further direct and proximate result of the negligence, carelessness, and
12 recklessness of Defendants, and each of them, Plaintiff has incurred substantial out-of-pocket
13 expenses, including, but not limited to, money spent for prescriptions, medication, and
14 uncovered medical expenses.
15

16 17. That as a further direct and proximate result of the negligence, carelessness, and
17 recklessness of Defendants, and each of them, Plaintiff has endured physical and emotional pain
18 and suffering. It is further expected that Plaintiff will be forced to endure future physical and
19 emotional pain associated with her continued medical treatment, recuperation, physical therapy
20 and limitations associated with her injuries into the foreseeable future.
21

22 18. That as a further direct and proximate result of the negligence, carelessness, and
23 recklessness of Defendants, and each of them, Plaintiff has suffered and continues to suffer a
24 significant deterioration in Plaintiff's enjoyment of life and lifestyle.
25

26 19. That as a further direct and proximate result of the negligence, carelessness, and
27 recklessness of Defendants, and each of them, Plaintiff has suffered and continues to suffer a
28 significant deterioration in her ability to work, limiting her employment and resulting in lost

1 wages and diminished earning capacity, both past and future.

2 20. That Plaintiff has had to retain the services of an attorney to prosecute this action
3 and is, therefore, entitled to reasonable attorney's fees and costs of suit incurred herein.


4 WHEREFORE, Plaintiff, expressly reserving the right to amend her Complaint at the
5 time of trial of the actions herein to include all items of damages not yet ascertained, demands
6 judgment against Defendants, and each of them, as follows:
7

- 8 1. General damages in an amount in excess of \$15,000.00;
- 9 2. Damages for costs of medical care and treatment and costs incidental thereto,
10 when the same have been fully ascertained;
- 11 3. Damages for loss of earnings and future earning capacity when the same have
12 been fully ascertained;
- 13 4. For a sum to be determined by the trier of fact for loss of enjoyment of life
14 pursuant to Banks v. Sunrise Hosp., 120 Nev. 822, 836 (2004);
- 15 5. Reasonable attorney's fees and costs of suit incurred herein; and
- 16 6. For such other and further relief as the Court may deem proper in the premises.
17

18 DATED this 6 day of April, 2021.

19
20 MOSS BERG INJURY LAWYERS

21
22 By:

23 
BOYD B. MOSS III, ESQ.

Nevada Bar No. 8856

boyd@mossberglv.com

24 JOHN C. FUNK, ESQ.

Nevada Bar No. 9255

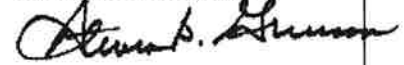
25 john@mossberglv.com

26 4101 Meadows Lane, Suite 110

27 Las Vegas, Nevada 89107

28 *Attorneys for Plaintiff*

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Steven D. Grierson
CLERK OF THE COURT



1 ANS
2 LEW BRANDON, JR., ESQ.
3 Nevada Bar No. 5880
4 ANDREW GUZIK, ESQ.
5 Nevada Bar No. 12758
6 HOMERO GONZALEZ, ESQ.
7 Nevada Bar No. 15231
8 BRANDON | SMERBER LAW FIRM
9 139 E. Warm Springs Road
10 Las Vegas, Nevada 89119
11 (702) 380-0007
12 (702) 380-2964 – facsimile
13 l.brandon@bsnv.law
14 a.guzik@bsnv.law
15 h.gonzalez@bsnv.law
16 Attorneys for Defendant,
17 ALBERTSONS, LLC d/b/a ALBERTSONS

DISTRICT COURT
CLARK COUNTY, NEVADA

CHRISTIAN O'DELL,

Plaintiff,

vs.

ALBERTSON'S LLC, a Foreign Limited-
Liability Company, d/b/a ALBERTSONS;
DOE EMPLOYEE, a Nevada Resident; DOE
STORE MANAGER, a Nevada Resident;
ROE MAINTENANCE COMPANY, a
Nevada Corporation; ROE
CONSTRUCTION COPANY, a Nevada
Corporation; DOES III through X; and ROE
CORPORATIONS III through X, inclusive,

Defendants.

CASE NO.: A-21-832479-C
DEPT. NO.: 26

**DEFENDANT, ALBERTSONS, LLC d/b/a ALBERTSONS' ANSWER TO
PLAINTIFF'S COMPLAINT**

COMES NOW, Defendant, ALBERTSONS, LLC d/b/a ALBERTSONS, by and through
its undersigned attorney, LEW BRANDON, JR., ESQ., ANDREW GUZIK, ESQ., and HOMERO

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

BRANDON | SMERBER
LAW FIRM

GONZALEZ, ESQ., of BRANDON | SMERBER LAW FIRM, and hereby answers the Plaintiff's Complaint on file herein as follows:

1. Answering Paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 12 and 14 of Plaintiff's Complaint on file herein, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the said allegations and therefore denies same.

2. Answering Paragraph 2 of Plaintiff's Complaint on file herein, "Plaintiff is informed, believes, and thereon alleges that at all times relevant to these proceedings, Defendant, ALBERTSON'S LLC (hereinafter referred to as "Defendant"), was and is a Foreign Limited-Liability Company", Defendant admits the allegations contained therein. As to "organized and existing pursuant to the laws of the State of Nevada, Defendant denies the allegations contained therein. As to "and authorized to do and doing business in Clark County, Nevada, as ALBERTSONS, located at 2835 South Nellis, Las Vegas, Nevada 89130 (hereinafter referred to as "Subject Premises")", Defendant admits the allegations contained therein.

3. Answering Paragraphs 11, 13, 15, 16, 17, 18, 19 and 20 of Plaintiff's Complaint on file herein, Defendant denies each and every allegation contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim against Defendant upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant alleges that at the time and place alleged in Plaintiff's Complaint, Plaintiff did not exercise ordinary care, caution or prudence for the protection of herself and any damages complained of by the Plaintiff in her Complaint, were directly or proximately caused or contributed to by the fault, failure to act, carelessness and negligence of Plaintiff.

THIRD AFFIRMATIVE DEFENSE

Defendant alleges that the Plaintiff assumed whatever risk or hazard existed at the time of this incident, if any there were, and was therefore responsible for the alleged damage suffered and further that the Plaintiff was guilty of negligence of her own act which caused or contributed to by the fault, failure to act, carelessness or negligence of Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

All the risks and dangers involved in the factual situation described in Plaintiff's Complaint, if any there were, were open, obvious and known to the Plaintiff and by reason thereof, Plaintiff assumed the risks and dangers inherent thereto.

FIFTH AFFIRMATIVE DEFENSE

Defendant alleges that the negligence of the Plaintiff exceeded that of the Defendant, and that the Plaintiff is thereby barred from recovery.

SIXTH AFFIRMATIVE DEFENSE

Pursuant to NRCP 11, as amended: All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and therefore, Defendant reserves the right to amend this Answer to allege additional affirmative defenses if subsequent investigation warrants.

SEVENTH AFFIRMATIVE DEFENSE

The damages sustained by Plaintiff, if any, were caused by the acts of third persons who were not agents, servants or employees of this answering Defendant and who were not acting on behalf of this answering Defendant in any manner or form and as such, this Defendant is not liable in any matter to the Plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

Defendant at all times relevant to the allegations contained in Plaintiff's Complaint, acted with due care and circumspection in the performance of any and all duties imposed on it.

NINTH AFFIRMATIVE DEFENSE

That it has been necessary of the Defendant to employ the services of an attorney to defend the action and a reasonable sum should be allowed Defendant for attorney's fees, together with costs of suit incurred herein.

TENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate her alleged damages, and, to the extent of such failure to mitigate any damages awarded to Plaintiff, should be reduced accordingly.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by applicable statutes of limitations.

TWELFTH AFFIRMATIVE DEFENSE

Defendant objects as to authentication, foundation and genuineness of all of Plaintiff's medical providers and documents listed or presented by Plaintiff.

WHEREFORE, Defendant, ALBERTSONS, LLC d/b/a ALBERTSONS, prays as follows:

1. That Plaintiff take nothing by way of her Complaint on file herein;
2. For reasonable attorney's fees and costs of suit incurred herein; and

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///

BRANDON | SMERBER
LAW FIRM
139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

3. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 26th day of April, 2021.

BRANDON | SMERBER LAW FIRM

/s/ Lew Brandon, Jr., Esq.

LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

ANDREW GUZIK, ESQ.

Nevada Bar No. 12758

HOMERO GONZALEZ, ESQ.

Nevada Bar No. 15231

139 E. Warm Springs Road

Las Vegas, Nevada 89119

Attorneys for Defendant,

ALBERTSONS, LLC d/b/a ALBERTSONS

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on April 26, 2021, I served a copy of the foregoing **DEFENDANT, ALBERTSONS, LLC d/b/a ALBERTSONS' ANSWER TO PLAINTIFF'S COMPLAINT** through the Court's ECF electronic filing system, upon the following:

BOYD B. MOSS III, ESQ.

Nevada Bar No. 8856

JOHN C. FUNK, ESQ.

Nevada Bar No. 9255

MOSS BERG INJURY LAWYERS

4101 Meadows Lane, Suite 110

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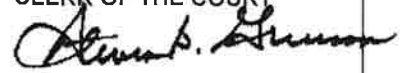
Attorneys for Plaintiff,

CHRISTIAN O'DELL

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm

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BRANDON | SMERBER
LAW FIRM

1 **IAFD**
2 **LEW BRANDON, JR., ESQ.**
Nevada Bar No. 5880
3 **ANDREW GUZIK, ESQ.**
Nevada Bar No. 12758
4 **HOMERO GONZALEZ, ESQ.**
Nevada Bar No. 15231
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7 (702) 380-0007
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8 l.brandon@bsnv.law
9 a.guzik@bsnv.law
h.gonzalez@bsnv.law
10 *Attorneys for Defendant,*
11 **ALBERTSONS, LLC d/b/a ALBERTSONS**

**DISTRICT COURT
CLARK COUNTY, NEVADA**

12
13 CHRISTIAN O'DELL,
14
15 Plaintiff,

CASE NO.: A-21-832479-C
DEPT. NO.: 26

16 vs.

17 ALBERTSON'S LLC, a Foreign Limited-
18 Liability Company, d/b/a ALBERTSONS;
DOE EMPLOYEE, a Nevada Resident; DOE
19 STORE MANAGER, a Nevada Resident;
ROE MAINTENANCE COMPANY, a
20 Nevada Corporation; ROE
CONSTRUCTION COPANY, a Nevada
21 Corporation; DOES III through X; and ROE
22 CORPORATIONS III through X, inclusive,
23 Defendants.

INITIAL APPEARANCE FEE DISCLOSURE
(NRS CHAPTER 19)

24
25 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted
26
27 for parties appearing in the above-entitled action as indicated below:

- 28 1. ALBERTSONS, LLC., Defendant.....\$223.00

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

BRANDON | SMERBER
LAW FIRM

1 **TOTAL REMITTED.....\$223.00**

2 DATED this 26th day of April, 2021.

3 **BRANDON | SMERBER LAW FIRM**

4 /s/ Lew Brandon, Jr., Esq.

5 **LEW BRANDON, JR., ESQ.**

6 Nevada Bar No. 5880

7 **ANDREW GUZIK, ESQ.**

8 Nevada Bar No. 12758

9 **HOMERO GONZALEZ, ESQ.**

10 Nevada Bar No. 15231

11 139 E. Warm Springs Road

12 Las Vegas, Nevada 89119

13 *Attorneys for Defendant,*

14 *ALBERTSONS, LLC d/b/a ALBERTSONS*

15 **CERTIFICATE OF SERVICE**

16 Pursuant to Nev. R. Civ. P. 5(b), I certify that on April 26, 2021, I served a copy of the
17 foregoing **INITIAL APPEARANCE FEE DISCLOSURE** through the Court's ECF electronic
18 filing system, upon the following:

19 **BOYD B. MOSS III, ESQ.**

20 Nevada Bar No. 8856

21 **JOHN C. FUNK, ESQ.**

22 Nevada Bar No. 9255

23 **MOSS BERG INJURY LAWYERS**

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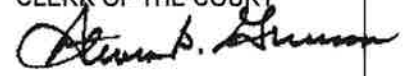
28 *Attorneys for Plaintiff,*

CHRISTIAN O'DELL

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm

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CLERK OF THE COURT



DMJT
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Attorneys for Defendant,
ALBERTSONS, LLC d/b/a ALBERTSONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CHRISTIAN O'DELL,

Plaintiff,

vs.

ALBERTSON'S LLC, a Foreign Limited-
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DOE EMPLOYEE, a Nevada Resident; DOE
STORE MANAGER, a Nevada Resident;
ROE MAINTENANCE COMPANY, a
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CONSTRUCTION COMPANY, a Nevada
Corporation; DOES III through X; and ROE
CORPORATIONS III through X, inclusive,

Defendants.

CASE NO.: A-21-832479-C
DEPT. NO.: 26

DEMAND FOR JURY TRIAL

COMES NOW, Defendant, ALBERTSONS, LLC, d/b/a ALBERTSONS. by and
through its attorney of record, LEW BRANDON, JR., ESQ., ANDREW GUZIK, ESQ., and

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

**BRANDON | SMERBER
LAW FIRM**

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LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

BRANDON | SMERBER
LAW FIRM

1 HOMERO GONZALEZ, ESQ., of BRANDON | SMERBER LAW FIRM, and hereby demands
2 a Jury Trial in the above-entitled action.

3 DATED this 26th day of April, 2021.

4 **BRANDON | SMERBER LAW FIRM**

5 /s/ Lew Brandon, Jr., Esq.

6 **LEW BRANDON, JR., ESQ.**

7 Nevada Bar No. 5880

8 **ANDREW GUZIK, ESQ.**

9 Nevada Bar No. 12758

10 **HOMERO GONZALEZ, ESQ.**

11 Nevada Bar No. 15231

12 139 E. Warm Springs Road

13 Las Vegas, Nevada 89119

14 *Attorneys for Defendant,*

15 *ALBERTSONS, LLC d/b/a ALBERTSONS*

16 **CERTIFICATE OF SERVICE**

17 Pursuant to Nev. R. Civ. P. 5(b), I certify that on April 26, 2021, I served a copy of the
18 foregoing **DEMAND FOR JURY TRIAL** through the Court's ECF electronic filing system,
19 upon the following:

20 **BOYD B. MOSS III, ESQ.**

21 Nevada Bar No. 8856

22 **JOHN C. FUNK, ESQ.**

23 Nevada Bar No. 9255

24 **MOSS BERG INJURY LAWYERS**

25 4101 Meadows Lane, Suite 110

26 Las Vegas, Nevada 89107

27 702-222-4555

28 Facsimile – 702-222-4556

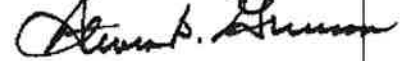
Attorneys for Plaintiff,

CHRISTIAN O'DELL

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm

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4/26/2021 9:00 AM
Steven D. Grierson
CLERK OF THE COURT



CSRE
LEW BRANDON, JR., ESQ.
Nevada Bar No. 5880
ANDREW GUZIK, ESQ.
Nevada Bar No. 12758
HOMERO GONZALEZ, ESQ.
Nevada Bar No. 15231
BRANDON | SMERBER LAW FIRM
139 E. Warm Springs Road
Las Vegas, Nevada 89119
(702) 380-0007
(702) 380-2964 – *facsimile*
l.brandon@bsnv.law
a.guzik@bsnv.law
h.gonzalez@bsnv.law
Attorneys for Defendant,
ALBERTSONS, LLC d/b/a ALBERTSONS

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CHRISTIAN O'DELL,

Plaintiff,

vs.

ALBERTSON'S LLC, a Foreign Limited-
Liability Company, d/b/a ALBERTSONS;
DOE EMPLOYEE, a Nevada Resident; DOE
STORE MANAGER, a Nevada Resident;
ROE MAINTENANCE COMPANY, a
Nevada Corporation; ROE
CONSTRUCTION COPANY, a Nevada
Corporation; DOES III through X; and ROE
CORPORATIONS III through X, inclusive,

Defendants.

CASE NO.: A-21-832479-C
DEPT. NO.: 26

**CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING
PROGRAM**

The undersigned parties hereby consent to service of documents by electronic means
through the Court's e-filing program on behalf of the following parties: ALBERTSONS, LLC
d/b/a ALBERTSONS.

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

**BRANDON | SMERBER
LAW FIRM**

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

BRANDON | SMERBER
LAW FIRM

1 Documents served by electronic means must be transmitted to the following persons at
2 the e-mail addresses listed: l.brandon@bsnv.law; a.guzik@bsnv.law; and h.gonzalez@bsnv.law.

3 It is my understanding that the attachments may be transmitted to the program in any
4 format and will be converted to a PDF file before service is effected.

5 The undersigned also acknowledges that this Consent does not require service by
6 electronic means unless the serving party elects to do so.

7 DATED this 26th day of April, 2021.

8 **BRANDON | SMERBER LAW FIRM**

9 */s/ Lew Brandon, Jr., Esq.*

10 **LEW BRANDON, JR., ESQ.**

11 Nevada Bar No. 5880

12 **ANDREW GUZIK, ESQ.**

13 Nevada Bar No. 12758

14 **HOMERO GONZALEZ, ESQ.**

15 Nevada Bar No. 15231

16 139 E. Warm Springs Road

17 Las Vegas, Nevada 89119

18 *Attorneys for Defendant,*

19 *ALBERTSONS, LLC d/b/a ALBERTSONS*

20 ///

21 ///

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28 ///

BRANDON | SMERBER
LAW FIRM
139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on April 26, 2021, I served a copy of the foregoing **CONSENT TO SERVICE BY ELECTRONIC MEANS THROUGH E-FILING PROGRAM** through the Court's ECF electronic filing system, upon the following:

BOYD B. MOSS III, ESQ.

Nevada Bar No. 8856

JOHN C. FUNK, ESQ.

Nevada Bar No. 9255

MOSS BERG INJURY LAWYERS

4101 Meadows Lane, Suite 110

Las Vegas, Nevada 89107

702-222-4555

Facsimile – 702-222-4556

Attorneys for Plaintiff,

CHRISTIAN O'DELL

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm

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4/26/2021 9:02 AM
Steven D. Grierson
CLERK OF THE COURT



1 **DSST**
2 **LEW BRANDON, JR., ESQ.**
3 Nevada Bar No. 5880
4 **ANDREW GUZIK, ESQ.**
5 Nevada Bar No. 12758
6 **HOMERO GONZALEZ, ESQ.**
7 Nevada Bar No. 15231
8 **BRANDON | SMERBER LAW FIRM**
9 139 E. Warm Springs Road
10 Las Vegas, Nevada 89119
11 (702) 380-0007
12 (702) 380-2964 – *facsimile*
13 l.brandon@bsnv.law
14 a.guzik@bsnv.law
15 h.gonzalez@bsnv.law
16 *Attorneys for Defendant,*
17 *ALBERTSONS, LLC d/b/a ALBERTSONS*

18 **DISTRICT COURT**
19 **CLARK COUNTY, NEVADA**

20 CHRISTIAN O'DELL,

21 Plaintiff,

22 vs.

23 ALBERTSON'S LLC, a Foreign Limited-
24 Liability Company, d/b/a ALBERTSONS;
25 DOE EMPLOYEE, a Nevada Resident; DOE
26 STORE MANAGER, a Nevada Resident;
27 ROE MAINTENANCE COMPANY, a
28 Nevada Corporation; ROE
CONSTRUCTION COPANY, a Nevada
Corporation; DOES III through X; and ROE
CORPORATIONS III through X, inclusive,

Defendants.

CASE NO.: A-21-832479-C
DEPT. NO.: 26

DISCLOSURE STATEMENT PURSUANT TO NRCP 7.1

The undersigned counsel of record for Defendant, ALBERTSONS, LLC., A
DELAWARE LIMITED LIABILITY COMPANY hereby certifies that to their knowledge,

139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

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ALBERTSONS, LLC.'s parent company is Albertson's Holding, LLC., a Delaware limited liability company, and is not publicly traded.

There are no other known interested parties other than those identified.

DATED this 26th day of April, 2021.

BRANDON | SMERBER LAW FIRM

/s/ Lew Brandon, Jr., Esq.

LEW BRANDON, JR., ESQ.

Nevada Bar No. 5880

ANDREW GUZIK, ESQ.

Nevada Bar No. 12758

HOMERO GONZALEZ, ESQ.

Nevada Bar No. 15231

139 E. Warm Springs Road

Las Vegas, Nevada 89119

Attorneys for Defendant,

ALBERTSONS, LLC d/b/a ALBERTSONS

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on April 26, 2021, I served a copy of the foregoing **DISCLOSURE STATEMENT PURSUANT TO NRCP 7.1** through the Court's ECF electronic filing system, upon the following:

BOYD B. MOSS III, ESQ.

Nevada Bar No. 8856

JOHN C. FUNK, ESQ.

Nevada Bar No. 9255

MOSS BERG INJURY LAWYERS

4101 Meadows Lane, Suite 110

Las Vegas, Nevada 89107

702-222-4555

Facsimile – 702-222-4556

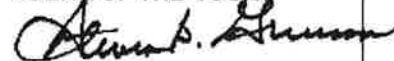
Attorneys for Plaintiff,

CHRISTIAN O'DELL

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm

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4/26/2021 9:03 AM
Steven D. Grierson
CLERK OF THE COURT



1 REQT

2 LEW BRANDON, JR., ESQ.

3 Nevada Bar No. 5880

4 ANDREW GUZIK, ESQ.

5 Nevada Bar No. 12758

6 HOMERO GONZALEZ, ESQ.

7 Nevada Bar No. 15231

8 BRANDON | SMERBER LAW FIRM

9 139 E. Warm Springs Road

10 Las Vegas, Nevada 89119

11 (702) 380-0007

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13 l.brandon@bsnv.law

14 a.guzik@bsnv.law

15 h.gonzalez@bsnv.law

16 Attorneys for Defendant,

17 ALBERTSONS, LLC d/b/a ALBERTSONS

18 DISTRICT COURT
19 CLARK COUNTY, NEVADA

20 CHRISTIAN O'DELL,

21 Plaintiff,

22 vs.

23 ALBERTSON'S LLC, a Foreign Limited-
24 Liability Company, d/b/a ALBERTSONS;
25 DOE EMPLOYEE, a Nevada Resident; DOE
26 STORE MANAGER, a Nevada Resident;
27 ROE MAINTENANCE COMPANY, a
28 Nevada Corporation; ROE
CONSTRUCTION COPANY, a Nevada
Corporation; DOES III through X; and ROE
CORPORATIONS III through X, inclusive,

Defendants.

CASE NO.: A-21-832479-C
DEPT. NO.: 26

**NRCP 16.1(A)(1)(C) REQUEST FOR COMPUTATION OF DAMAGES AND
DISCLOSURE OF SUPPORTING DOCUMENTS AND NRCP 16.1(a)(1)(A)(iii)
REQUEST FOR MEDICAL PROVIDER IDENTITY**

Pursuant to NRCP 16.1(a)(1)(C), Defendant, ALBERTSONS, LLC d/b/a
ALBERTSONS, hereby requests that Plaintiff, CHRISTIAN O'DELL, provide, within 30 days

BRANDON | SMERBER
LAW FIRM
139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

1 of this Request, a computation of any and all categories of damages claimed by Plaintiff, including
2 making available for inspection and copying as under Rule 34 the documents or other evidentiary
3 matter, not privileged or protected from disclosure, on which such computation is based, including
4 materials bearing on the nature and extent of injuries suffered.
5

6 DATED this 26th day of April, 2021.

7 **BRANDON | SMERBER LAW FIRM**

8 /s/ Lew Brandon, Jr., Esq.

9 **LEW BRANDON, JR., ESQ.**

10 Nevada Bar No. 5880

11 **ANDREW GUZIK, ESQ.**

12 Nevada Bar No. 12758

13 **HOMERO GONZALEZ, ESQ.**

14 Nevada Bar No. 15231

15 139 E. Warm Springs Road

16 Las Vegas, Nevada 89119

17 *Attorneys for Defendant,*

18 *ALBERTSONS, LLC d/b/a ALBERTSONS*

19 ///

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BRANDON | SMERBER
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139 E. WARM SPRINGS RD.
LAS VEGAS, NEVADA 89119
T. 702.380.0007 | F. 702.380.2964

CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on April 26, 2021, I served a copy of the foregoing **NRCP 16.1(A)(1)(C) REQUEST FOR COMPUTATION OF DAMAGES AND DISCLOSURE OF SUPPORTING DOCUMENTS AND NRCP 16.1(a)(1)(A)(iii) REQUEST FOR MEDICAL PROVIDER IDENTITY** through the Court's ECF electronic filing system, upon the following:

BOYD B. MOSS III, ESQ.
Nevada Bar No. 8856
JOHN C. FUNK, ESQ.
Nevada Bar No. 9255
MOSS BERG INJURY LAWYERS
4101 Meadows Lane, Suite 110
Las Vegas, Nevada 89107
702-222-4555
Facsimile – 702-222-4556
Attorneys for Plaintiff,
CHRISTIAN O'DELL

/s/ Bonita Alexander

An Employee of Brandon | Smerber Law Firm

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5/17/2021 1:52 PM
Steven D. Grierson
CLERK OF THE COURT



1 **ABREA**
2 **BOYD B. MOSS III, ESQ.**
3 Nevada Bar No. 8856
4 boyd@mossberglv.com
5 **JOHN C. FUNK, ESQ.**
6 Nevada Bar No. 9255
7 john@mossberglv.com
8 **MOSS BERG INJURY LAWYERS**
9 4101 Meadows Lane, Suite 110
10 Las Vegas, Nevada 89107
11 Telephone: (702) 222-4555
12 Facsimile: (702) 222-4556
13 *Attorneys for Plaintiff*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 **CHRISTIAN O'DELL,**
12
13 Plaintiff,

CASE NO. A-21-832479-C
DEPT. NO. 26

13 **v.**

REQUEST FOR EXEMPTION
FROM ARBITRATION

14 **ALBERTSON'S LLC, a Foreign Limited-**
15 **Liability Company, d/b/a ALBERTSONS;**
16 **DOE EMPLOYEE, a Nevada Resident;**
17 **DOE STORE MANAGER, a Nevada**
18 **Resident; ROE MAINTENANCE**
19 **COMPANY, a Nevada Corporation; ROE**
20 **CONSTRUCTION COMPANY, a Nevada**
21 **Corporation; DOES III through X; and ROE**
22 **CORPORATIONS III through X, inclusive,**

23 **Defendants.**

24 Pursuant to Nevada Arbitration Rules 3 and 5, Plaintiff, CHRISTIAN O'DELL by and
25 through her attorneys of record, BOYD B. MOSS III, ESQ., and JOHN C. FUNK, ESQ., of the
26 law firm of MOSS BERG INJURY LAWYERS, hereby request the above-entitled matter be
27 exempted from arbitration, as this case:
28

1. _____ Presents a significant issue of public policy;
2. X Involves an amount in excess of \$50,000, exclusive of interest and costs;
3. _____ Presents unusual circumstances which constitute good cause for removal from the program.

I.

**A SPECIFIC SUMMARY OF THE FACTS WHICH SUPPORTS PLAINTIFF'S
CONTENTION FOR EXEMPTION**

A. A SUMMARY OF THE FACTS WHICH SUPPORTS PLAINTIFF'S REQUEST FOR EXEMPTION IS AS FOLLOWS:

On or about December 28, 2019, Plaintiff was a guest at ALBERTSON'S, located at 2835 South Nellis, Las Vegas, Nevada 89130 (hereinafter referred to as "Subject Premises") where Defendants, ALBERTSONS, DOE EMPLOYEE, DOE STORE MANAGER, ROE MAINTENANCE COMPANY, and/or ROE CONSTRUCTION COMPANY (hereinafter, "Defendants") failed to properly maintain and/or inspect the Subject Premises, allowing a hazardous condition to exist thus forcing Plaintiff to encounter a dangerous condition. Defendants act of leaving unsecured floorboards in a designated walkway on exposed holes in the ground, due to a sewage back up on the Subject Premises without warning or an attempt to fix directly and proximately caused Plaintiff to lose her balance and her body to twist sustaining severe injuries to her right knee and hip.

As a direct result of Defendants negligence, Plaintiff suffered severe and debilitating injuries, all or some of which conditions may be permanent and disabling in nature, which affect her ability to work and her ability to engage in the enjoyment of life.

B. PLAINTIFF'S SEVERE AND/OR PERMANENT INJURIES AS DIAGNOSED BY HER HEALTHCARE PROVIDERS ARE SUMMARIZED AS FOLLOWS:

Due to subject Incident, Ms. O'Dell had to undergo several procedures, including a surgical right knee arthroscopy performed by Doctor Bernard Ong, M.D. During the course of her treatment, Plaintiff has been diagnosed with the following incident related injuries:

- | | |
|--|---|
| 1. Moderate tendinosis of quadriceps tendon at its insertion with quadriceps fat pad edema | 5. Knee sprain |
| 2. Mild tendinosis of the patellar tendon | 6. Right knee pain |
| 3. 5 mm Articular Cartilage Defect in the lateral facet of the patella | 7. Tear of lateral meniscus of right knee |
| 4. 5.5 mm osteochondral defect | 8. Chondromalacia of patellofemoral joint |
| | 9. Traumatic arthropathy of right knee |

C. POST-INJURY MEDICAL SPECIALS INCURRED TO DATE OF WHICH PLAINTIFF'S COUNSEL IS AWARE:

Plaintiff states that her Incident-related medical specials received to date are:

Medical Provider:	Treatment Dates:	Amount:
Clark Schillinger Emergency Group – Dignity Health St. Rose Dominican Sahara Campus	12/30/2019	\$747.00
Dignity Health – St. Rose Dominican Sahara	12/30/2019	\$4,317.85
Bernard Ong, M.D.	01/17/2020 – 10/05/2020	\$20,975.00
Las Vegas Radiology	01/30/2020	\$1,650.00
Rapid Rehab Physical Therapy	03/12/2020 – 10/26/2020	\$5,680.00
Valley Anesthesiology Consultants	06/23/2020	\$1,400.00
All <u>Medical</u>	<u>06/23/2020</u>	\$2,900.00
Affinity Surgery Center	06/23/2020	\$47,200.00
TOTAL:		\$86,617.71

Plaintiff states that her approximate total medical bills received to date are **\$86,617.71**. Additionally, Plaintiff's general damages are in an amount in excess of **\$15,000.00** and will be

1 determined at the time of the trial in this matter. Plaintiff reserves the right to supplement this
2 computation of damages as additional information becomes available.

3 As is evidenced by the serious and permanent injuries diagnosed by Plaintiff's healthcare
4 providers, together with the significant medical expenses incurred by the Plaintiff, Plaintiff's case
5 clearly has a probable jury award value well in excess of \$50,000.00. Accordingly, and pursuant
6 to NAR 3, this matter is appropriately exempted from the Court Annexed Arbitration Program.

7
8 Based upon the foregoing, I hereby certify pursuant to N.R.C.P. 11 this case to be within
9 the exemption marked above, and I am aware of the sanctions which may be imposed against any
10 attorney or party who without good cause or justification attempts to remove a case from the
11 arbitration program.

12
13 ///

14 ///

15 ///

1 I further certify pursuant to NRS Chapter 239B and NRS 603A.040 that this document
2 and any attachments thereto do not contain personal information including, without limitation,
3 home address/phone number, social security number, driver's license number or identification
4 card number, account number, PIN numbers, credit card number or debit card number, in
5 combination with any required security code, access code or password that would permit access
6 to the person's financial account.
7

8
9 DATED this 17 day of May, 2021.

10 MOSS BERG INJURY LAWYERS

11
12 By:

13 
14 BOYD B. MOSS III, ESQ.
15 Nevada Bar No. 8856
16 boyd@mossberglv.com
17 JOHN C. FUNK, ESQ.
18 Nevada Bar No. 9255
19 john@mossberglv.com
20 4101 Meadows Lane, Suite 110
21 Las Vegas, Nevada 89107
22 Telephone: (702) 222-4555
23 Facsimile: (702) 222-4556
24 *Attorneys for Plaintiff*
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and Administrative Order 14-02 of the Eighth Judicial District Court, I hereby certify that I am an employee of MOSS BERG INJURY LAWYERS and that on the 17 day of May, 2021, I served the above and foregoing **REQUEST FOR EXEMPTION FROM ARBITRATION** on the following parties in compliance with the Nevada Electronic Filing and Conversion Rules:

LEW BRANDON, JR., ESQ.
BRANDON | SMERBER LAW FIRM
139 E. Warm Springs Road
Las Vegas, Nevada 89119
Attorneys for Defendant
ALBERTSONS, LLC d/b/a ALBERTSONS


An Employee of MOSS BERG INJURY LAWYERS